IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 1073 of 1994

SHRI KUNDESHWAR MANADEO TRUST,
V/S
STATE & ORS

Mr. TS CHAMPAWAT, for the appellant / petitioner

Mr. LR MEHTA, for the respondent

Date of Order : 23.1.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

This writ petition has been filed against the order of the Commissioner, Devasthan dt. 4.5.1992 (Annexure-8), setting aside the order of the Assistant Commissioner, Devasthan dt. 20.8.1991 (Annexure-7).

By Annexure-7 the Assistant Commissioner, Devasthan held an enquiry under Section 17 of the Rajasthan Public Trust Act, and found the existence of trust in question, and also found certain properties to be belonging to trust, and also found working trustees. The origin etc. were also found. Against this order an appeal was filed by the present private respondents, which appeal has been allowed vide Annexure-8.

In appeal the controversy was confined only to one of the properties found to be belonging to the trust, being

Khasra No. 760 and 761, as the private respondents claimed the property belong to them, while the Assistant Commissioner found the property to be belonging to the trust. This order was passed by the Assistant Commissioner under Section 18 against which order the appeal was filed under Section 20, which has been decided vide Annexure-8, and consequence is, that an entry is to be made in the register, in accordance with the findings recorded in Annexure-8, with respect to the property in question.

Section 22 of the Act reads as under:-

> "Sec. 22- Civil Suit against entries made under section 21:
>
> (1) Any working trustee or person having interest in a public trust or in any property found to be trust property aggrieved by any entry made under section 21 may, within six months from the date of the publication thereof on the notice board of the office of the Assistant Commissioner under sub-section (1) of section 21, institute a suit in a civil court to have such entry cancelled or modified.
>
> (2) In every such suit the civil court shall give notice to the State Government through the Assistant Commissioner and the State Government, if it so desires shall be made a party to the suit.
>
> (3) On the final decision of the suit, the Assistant Commissioner shall, if necessary, correct the entries made in the register in accordance with such decision."

In view of the clear provisions of Section 22, since the petitioner had, remedy of regular civil suit, in

my view, no interference is required to be made in the writ jurisdiction.

The writ petition is, therefore, dismissed. The parties shall bear their own costs. It is clarified that dismissal of this writ petition will not come in the way of the petitioner in availing the remedy available to him under Section 22 of the Act.

(N P GUPTA),J.

/Sushil/